

## **REMARKS/ARGUMENTS**

Claims 1 to 18 are pending. Claims 2 to 4, 6 to 11, 13 and 14 have been withdrawn.

The Office Action stated: that this application contains claims directed to more than one species of the generic invention; and that these species are deemed to lack unity of invention because they are not so linked as to form a single general Inventive concept under PCT Rule 13.1.

The Office Action stated that the species are as follows:

A. The method of claim 1 wherein steps I)-vii), wherein step iv is optional, are carried out (e.g., step iii) is executed as part of the process); or

B. The method of claim 1 wherein steps i), ii), iv) (wherein iv is optional), v), vi) and vii) are carried out (e.g. step iii) is NOT executed as part of the process).

The Office Action stated: that applicants are required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable; that the reply must also identify the claims readable on the elected species, including any claims subsequently added; and that an argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election. Applicants elect with traverse the species of method B, the method of Claim 1 wherein steps i), ii), iv) (wherein iv is optional, v), vi) and vii) are carried out (e.g., step iii is NOT executed as part of the process).

The Office Action stated: that upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141; and that, If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The Office Action stated that the claims are deemed to correspond to the species listed above in the following manner:

The Office Action stated that Claims 2 to 18 are dependent from Claim 1, and, therefore are affected by the choice of executing step iii) in Claim 1.

The Office Action stated that the following claim(s) are generic: No claim is generic.

The Office Action stated that the species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Diafiltration requires equipment and large volumes of an appropriate solvent to effect a recycling process. Ultrafiltration is a simple passage of the fermentation broth through the membrane that does not require equipment to effect recycling or large volumes of an appropriate solvent.

The Office Action stated that applicants are advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention. Claims 1, 5, 12 and 15 to 18 are within the scope of the elected species, method B.

The Office Action stated: that the election of an invention or species may be made with or without traverse: and that, to reserve a right to petition, the election must be made with traverse if the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

The Office Action stated: that should applicants traverse on the ground that the inventions or species are not patentably distinct, applicants should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case; and that, in either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

The Office Action stated: that applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37

CFR 148(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application; and that any amendment of inventorship must be accompanied by a request under 37 C.F.R. 1.48(b) and by the fee under 37 C.F.R. 1.17(i).

Respectfully submitted,

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Date

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<p align="center"><b><u>CERTIFICATE OF MAILING</u></b></p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on <u>Feb. 4, 2008.</u></p> <p align="center"><u>Virgil H. Marsh</u> FISHER, CHRISTEN &amp; SABOL 1725 Street, N.W., Suite 1108 Washington, D.C. 20006</p>
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